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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.             | CONFIRMATION NO.            |
|---|-------------|----------------------|---------------------------------|-----------------------------|
| 10/693,965  | 10/28/2003  | Gabriel Wechter      | 200311246                       | 3644                        |
| 22879 7590 01/02/2008<br>HEWLETT PACKARD COMPANY<br>P O BOX 272400, 3404 E. HARMONY ROAD<br>INTELLECTUAL PROPERTY ADMINISTRATION<br>FORT COLLINS, CO 80527-2400 |             |                      | EXAMINER<br>DUNN, DARRIN D      |                             |
|   |             |                      | ART UNIT<br>2121                | PAPER NUMBER                |
|   |             |                      | NOTIFICATION DATE<br>01/02/2008 | DELIVERY MODE<br>ELECTRONIC |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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## Office Action Summary

Application No.

10/693,965

Applicant(s)

WECHTER ET AL.

Examiner

Darrin Dunn

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 05 October 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. This Office Action is responsive to the communication filed on 10/05/2007.
2. Claims 1-23 are presented for examination.

#### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-22 are rejected under 35 U.S.C. 102(e) as being anticipated by Frazier et al. (USPN 6941350).

5. As per claims 1 and 15, Frazier et al. teaches a method for managing a discovery-related process in a network, comprising:

identifying topology information – devices ([COL 11, lines 25-39] of the network using the discovery-related process – state machine ([FIG 8], [COL. 11 lines 24-25]) in an active mode- S1 ([FIG 8 –discovering state], [COL. 11, lines 24-27]);

placing the discovery-related process from the active mode –S1 into a standby mode – S2 using a management process – subnet manager ([COL 11, lines 49-51]);

monitoring to detect specified events – responses to requests ([COL. 11, line 55] in the network using the management process – subnet manager ([COL 11, lines 53-56] e.g., subnet manager periodically sends requests...referred to as polling) and then forward a count of the

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detected specified events to the discovery-related process – S4 ([FIG 8], [COL 11 lines 59-60] e.g., the claim terminology ‘forwarding’ is interpreted as placing into consideration. In the present case, the specified events are taken into consideration by tracking the predetermined number, i.e., count, of tries. At which point, a state change occurs. It is noted that ‘specified events’ are not further defined with sufficient specificity), and /or when the predetermined point in time arrives – defined time out ([COL. 11, lines 58-64]); and

placing the discovery-related process from the standby mode into the active mode ([COL 11 lines 61-64] when the count of the detected specified events exceed a threshold – predetermined number of tries ([COL. 11, line 60] e.g., specified events are broadly interpreted as any activity operable to trigger a state change) and/or when the predetermined point in time arrives – defined time out ([COL 11, lines 58-60])).

5. As per claims 2 and 16, Frazier et al. teaches the method of claim 1, comprising:

signaling the management process – SM with higher priority ([FIG 8]) when the discovery-related process completes identification of the network’s topology information – Discovery Completed ([FIG 8], [COL 12, lines 20-23])

6. As per claims 3, 11, and 17, Frazier et al. teaches the method of claim 1, wherein the discovery-related process transits from the active mode to the standby mode in an ordered sequence - S1-S2 ([FIG 8], [COL. 11, lines 66-67],[COL 12, lines 1-8]).

7. As per claims 4,12, and 18, Frazier et al. teaches the method of claim 1, comprising:

the discovery-related process identifying the network’s topology information – begin discovery process ([COL. 11, lines 58-64) in response to the discovery-related process

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transiting from the standby mode to the active mode ([COL. 11, lines 58-64] e.g., discovery process repeated again upon a transition from the standby to discovering (active mode))

8. As per claims 5 and 19, Frazier et al. teaches the method of claim 4, wherein the discovery-related process performing identification of the network's topology information in response to the discovery-related process transiting from the standby mode to the active mode comprises:

restarting initial subprocesses – S1-S4 ([FIG 8] e.g., state machine iteratively repeats transitions from standby to discovery based on status of subnet nodes) of the discovery-related process;

providing network topology information - subnet manager packets ([COL. 12 line 1] discovered by the initial subprocesses – DISCOVERING ([FIG 8] e.g., discovering entails employing processes including device discovery, querying ports, ascertaining path delays, and the like) to inactive subprocesses – STANDBY ([FIG 8], [COL. 12, line 4] of the discovery-related process;

the inactive subprocesses becoming active –MASTER ([FIG 8], [COL 12 e.g., ) in response to the provided network topology information – transition into discovering state ([COL. 12, line 2])

9. As per claims 6 and 20, Frazier et al. teaches the method of claim 5, wherein the initial subprocesses are restarted in an ordered sequence – S1-S4 ([FIG 8])

10. As per claims 7 and 21, Frazier et al. teaches the method of claim 4, comprising:

repeating the placing the discovery-related process from the active mode into the standby mode using the management process ([FIG 8], [COL 11, lines 49-51, 63-64] ,[COL. 12, lines

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e.g., begin the discovery process “again” for selecting a master subnet manager. Examiner interprets the reference as transitioning from an active to a standby state, and from a standby state to an active state based upon changing priority information –COL. 12 lines 38-47), after the discovery-related process identifying the network’s topology information ([COL. 11, lines 58-64] e.g., discovery process repeated again upon a transition from the standby to discovering (active mode)) in response to the discovery-related process transiting from the standby mode to the active mode.

11. As per claims 8, 13, and 22, Frazier et al. teaches the method of claim 1, wherein the discovery-related process in the standby mode compares the detected specified events to the threshold – no response /predetermined number of tries ([COL. 11, line 59]), and initiates a transition from the standby mode to the active mode when the detected specified events exceed the threshold – transitions standby state back to discovering state based on pre-determined number of tries ([COL. 11, lines 58-64])

12. As per claim 9, Frazier et al. teaches a system for managing a discovery-related process in a network , comprising:

means for identifying topology information – devices ([COL 11, lines 25-39) of the network using the discovery-related process – state machine ([FIG 8], [COL. 11 lines 24-25]) in an active mode- S1 ([FIG 8 –discovering state], [COL. 11, lines 24-27]);

means for placing the discovery-related process from the active mode –S1 into a standby mode – S2 for detecting specified events in the network and forwarding a count of the detected specified events to the means for identifying ([COL 11, lines 49-51([FIG 8], [COL 11 lines 59-60] e.g., the claim terminology ‘forwarding’ is interpreted as placing into consideration. In the

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present case, the specified events are taken into consideration by tracking the predetermined number, i.e., count, of tries. At which point, a state change occurs. It is noted that 'specified events' are not further defined with sufficient specificity), and /or when the predetermined point in time arrives – defined time out ([COL. 11, lines 58-64])

wherein the means for identifying compares the detected specified events against a threshold ([COL 11 lines 59-60]) and shifts from the standby mode into the active mode when the count of the detected specified events exceeds the threshold, and/or shifts from the standby mode into the active mode when the arrival of the predetermined point time is detected ([COL 11 line 59] e.g., defined timeout)

13. As per claim 10, Frazier et al. teaches the method of claim 9, wherein the means for identifying – S1 ([FIG 8]) signals the means for placing, detecting, and forwarding - state machine ([FIG 8]) when the means for identifying completes identification of the network's topology information –DISCOVERY COMPLETED ([FIG 8]).

14. As per claim 14, Frazier et al. teaches the method of claim 13, wherein the means for placing, detecting, and forwarding -state machine ([FIG 8]) shifts the means for identifying into the standby mode – S1-S2 ([FIG 8]) and the means for identifying –state machine ([FIG 8]) initiates a shift into the active mode –S1 when the detected specified events exceed the threshold – pre-determined number ([COL. 11, lines 58-64]) in a repeating cycle – transition from standby to discovering to begin process “again” ([COL. 11, lines 59-64], [FIG 8])

### ***Claim Rejections - 35 USC § 102***

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an

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international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

15. Claim 23 is rejected under 35 U.S.C. 102(e) as being anticipated by Wechter et al.

(USPN 20040172467)

16. As per claim 23, Wechter et al. teaches a method for managing a discovery-related process in a network comprising:

receiving topology information of the network from a discovery-related process in an active mode ([ABSTRACT] – discovery of topology);

placing the discovery –related process from an active mode into a standby mode ([0017 lines 6-8] e.g., time since last discovery operation implies that an active mode, upon completion, will fall into a standby mode);

monitoring the network to detect changes with respect to the received topology information ([0007 lines 4-8] e.g., detecting network changes);

accumulating a count of the detected changes in the network ([0016 lines 4-6]);

periodically forwarding the count to the discovery related process ([0018 lines 1-7] - intervals);

placing the discovery related process from the standby mode into the active mode when the count exceeds a threshold and/or when a predetermined point in time arrives ([0018 lines 1-7] triggering of re-discovery module)



***Response to Amendment***

17. The amendment, filed 10/05/2007, has been entered into record. The amendments to the claims have been considered.

***Response to Arguments***

18. Applicant's arguments filed 10/05/2007 have been fully considered but they are not persuasive.

Applicant's arguments are directed to maintaining a count of detected specified events that in turn effectuate a state change, i.e., a standby/active discovering state. A detected, specified event is not further defined in the claim language. Frazier et al. discloses maintaining a count of the number of retries in which a master subnet manager is inquired. Broadly, this corresponds to a specified event because the subnet manager is chosen and subsequently polled. The terminology 'forwarding,' may be interpreted as taking into consideration. In effect, based on the state diagram, a count/number of retries is taken into account via the state diagram. Upon the count exceeding a predetermined number of retries, a state change occurs.

Furthermore, the claim limitation 'and /or when the predetermined point in time arrives' – defined time out ([COL. 11, lines 58-64]) is not further elaborated as to further distinguish the reference from the instant application. Since a predetermined point in time is interpreted as any defined time, it is reasonable to assume a defined timeout reads of the claim limitation. Upon a exceeding a defined timeout, a state change occurs.

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*Conclusion*

19. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

6061735 – network restoration plan regeneration responsive to network topology changes

6519581 – Collection of information regarding a device (discovery agents)

20040172467- method and system for monitoring a network (HP disclosure discussing active discovery of network topology based upon specified events – ABSTRACT)

20040221041 – method and apparatus for discovering network devices

2006/0094429 – multiple personality telephony devices

20060189359 – power-conserving intuitive device discovery technique

20. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Darrin Dunn whose telephone number is (571) 270-1645. The examiner can normally be reached on EST:M-R(8:00-5:00) 9/5/4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Vincent can be reached on (571) 272-3080. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DD  
12/03/2007

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